

COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. **06-MSRC-010**

COMMONWEALTH OF KENTUCKY,
OFFICE OF MINE SAFETY AND LICENSING

COMPLAINANT

FINAL ORDER FOR JOHNNIE BELCHER

JOHNNIE BELCHER

RESPONDENT

* * * * *

This matter having come before the Commission on the Joint Motion to Approve Settlement Agreement between the Complainant, Office of Mine Safety and Licensing (OMSL) and Respondent Johnnie Belcher, and the members of the Commission having reviewed the Settlement Agreement filed on July 14, 2006 in the matter herein, and the Commissioners being sufficiently advised,

IT IS HEREBY **ORDERED** as follows:

1. The Joint Motion to Approve Settlement Agreement is **GRANTED**;
2. The formal hearing and pre-hearing conference are **CANCELLED**;
3. The **Settlement Agreement** signed by the parties and filed with the Commission is hereby **incorporated by reference** as if reproduced herein in full as a material part of this **FINAL ORDER**.

A copy is attached hereto;

4. This Final Order only resolves the matters referenced herein, and any new enforcement action or subsequent penalties imposed during any probationary period are in addition to and not in lieu of those that may be sought by OMSL for the acts or omissions during that probationary period. This Final Order in no way prohibits OMSL from investigating or filing legal action based upon other activities or omissions by the Respondent not arising from the factual basis of the original violation and resolved herein.
5. This Final Order shall be considered to constitute a “first offense” as that term is defined in 805 KAR 8:010, Section 1(5). Future allegations of separate offenses by Respondent, resulting in an adjudication of guilt by the Commission, shall be deemed “subsequent offenses” as defined by 805 KAR 8:010, Section 1(13);
6. This Final Order represents a final disposition of all issues between the Complainant and the Respondent, in these matters. Failure to comply with the terms and conditions of this Final Order may result in further action by the Commission; and
7. Appellate rights: Pursuant to KRS 351.194(8) and KRS 13B.140(1), an appeal of an order of the Commission must be filed in the Franklin Circuit Court within thirty (30) days of the entry of this Final Order. The petition shall include the names and addresses of all parties of record in this proceeding and shall include a statement of the grounds upon which review is requested. A copy

of this Final Order shall accompany the petition. Copies of the petition must be served upon the Commission and all parties of record in this proceeding.

Entered this the 13TH day of July 2006.

A handwritten signature in black ink, appearing to read 'Denise Moore Davidson', written over a horizontal line.

Denise Moore Davidson, Chair
MINE SAFETY REVIEW COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing FINAL ORDER was served by certified mail, return receipt requested, and by regular mail, postage pre-paid to the following this 14TH day of July 2006:

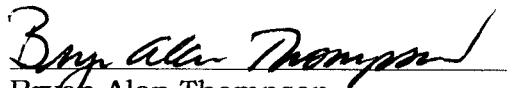
JOHNNIE M. BELCHER
80 POND CREEK ROAD
P.O. BOX 34
BELCHER KY 41513-0034

And by messenger mail to:

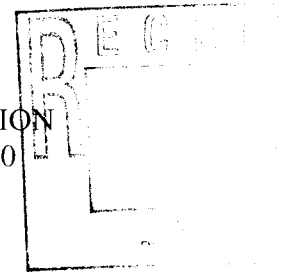
Hon. JAMES D. BRANNEN
Office of Legal Services
Natural Resources Legal Division
#2 Hudson Hollow
Frankfort, Kentucky 40601
(502) 564-2356
FAX: (502) 564-9212

And the original shall be kept on file:

Mine Safety Review Commission
132 Brighton Park Blvd.
Frankfort Ky 40601


Bryon Alan Thompson
Hearing Officer & General Counsel
Mine Safety Review Commission

KENTUCKY MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. 06-MSRC-010



COMMONWEALTH OF KENTUCKY,
OFFICE OF MINE SAFETY & LICENSING

COMPLAINANT

VS.

SETTLEMENT AGREEMENT BETWEEN OMSL
AND JOHNNIE BELCHER

JOHNNIE BELCHER

RESPONDENT

* * * * *

Comes the Complainant, the Kentucky Office of Mine Safety and Licensing ("OMSL"), and Respondent Johnnie Belcher ("Belcher"), and hereby state that they have agreed to a Settlement of the above-styled disciplinary proceeding, according to the following terms:

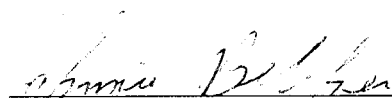
In consideration of the final resolution of this action against him, and the cancellation of the hearing as it pertains to him that is currently scheduled for August 10, 2006, Belcher admits that he improperly signed and certified Applications for Miner Certification in violation of KRS 352.390 as alleged in OMSL's Complaint. Therefore, Belcher hereby agrees to the following:

1. Belcher agrees to an eighteen (18) month probation of his surface and underground mining instructor certificates. The sanctions will be effective on the date of approval and entry of this Settlement Agreement by the Mine Safety Review Commission.

2. During this period of probation, Belcher shall comply with all state and federal mine safety laws and regulations. The willful violation by Belcher of any of said laws and regulations may result in OMSL filing a motion with the Mine Safety Review Commission to revoke his instructor certificates for the remainder of the sanction period.

3. Belcher understands and agrees that he has had the opportunity to retain an attorney to represent him in this matter, but that he has chosen to represent himself. Belcher further states that he has carefully read this Settlement Agreement, that he has carefully considered the Agreement prior to signing it and that he understands and agrees to its terms and provisions.

4. OMSL and Belcher acknowledge and agree that there are no further promises, inducements, representations, or agreements in connection with this Settlement Agreement other than those expressly set forth in writing herein.




JOHNNIE BELCHER
P.O. Box 34
Belcher, Kentucky 41513



JOHNNY GREENE
Acting Executive Director
KY Office of Mine Safety & Licensing
P.O. Box 2244
Frankfort, Kentucky 40602

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Settlement Agreement between OMSL and Johnnie Belcher was mailed this 14th day of ^{June}~~May~~, 2006, to: Johnnie Belcher, P.O. Box 34, Belcher, Kentucky 41513.



JAMES D. BRANNEN
OFFICE OF LEGAL SERVICES
NATURAL RESOURCES LEGAL DIVISION
KY OFFICE OF MINE SAFETY & LICENSING